

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN**

In re

CITY OF DETROIT, MICHIGAN,

Debtor.

)

) Chapter 9

)

) Case No. 13-53846

)

) Hon. Steven W. Rhodes

)

) **Expedited Consideration**

) **Requested**

***EX PARTE* MOTION FOR AN ORDER SHORTENING NOTICE AND
SCHEDULING AN EXPEDITED HEARING ON THE OBJECTORS'
MOTION TO ADMIT CERTAIN DEPOSITION TESTIMONY OF KEVYN
ORR AND KENNETH BUCKFIRE**

The Objectors¹ hereby move for the entry of an *ex parte* order pursuant to Rules 9006(c)(1) and 9007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rule 9006-1(b) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Eastern District of Michigan (the “Local Rules”) (a) shortening the notice period with respect to *The Objectors’ Motion to Admit Certain Deposition Testimony of Kevyn Orr and Kenneth Buckfire* (the “Motion”), and (b) scheduling a hearing on the

¹ This motion is joined by Syncora Capital Assurance Inc. and Syncora Guarantee Inc. (“Syncora”), Erste Europäische Pfandbriefund Kommunalkreditbank Aktiengesellschaft in Luxemburg S.A., DEPFA Bank PLC, Ambac Assurance Corporation, National Public Finance Guarantee Corporation, Assured Guaranty Municipal Corp., Financial Guaranty Insurance Company, the Police and Fire Retirement System of the City of Detroit and the General Retirement System of the City of Detroit, and the Official Committee of Retirees.

Motion for September 24, 2013 immediately prior to the scheduled hearing on the *Motion of Debtor for Entry of an Order (I) Authorizing the Assumption of that Certain Forbearance and Optional Termination Agreement Pursuant to Section 365(a) of the Bankruptcy Code, (II) Approving Such Agreement Pursuant to Rule 9019, and (III) Granting Related Relief* [Docket No. 17] (the “Assumption Motion”). In support of this *Ex Parte* Motion, the Objectors respectfully state as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue for this matter is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

RELIEF REQUESTED

2. The Objectors filed the Motion contemporaneously with the filing of the instant *Ex Parte* Motion. In the Motion, the Objectors seek entry of an order admitting certain deposition testimony of Kevyn Orr and Kenneth Buckfire pursuant to Federal Rule of Civil Procedure 32(a) and Bankruptcy Rule 7032.

3. By this *Ex Parte* Motion, the Objectors seek an order (a) shortening the notice period with respect to the Motion, and (b) scheduling a hearing on the Motion on September 24, 2013 at 9:00 a.m.

BASIS FOR RELIEF

4. Bankruptcy Rule 9006(c)(1) provides that “when an act is required or allowed to be done within a specified time by these rules or by a notice given thereunder or by order of court, the court for cause shown may in its discretion and without motion or notice order the period reduced.” Fed. R. Bankr. P. 9006)(c)(1). Local Rule 9006-1(b) further provides that a party may file a motion for an *ex parte* order reducing or enlarging the time for a party to take any action or file any paper.” E.D. Mich. LBR 9006-1(b).

5. In addition, pursuant to Bankruptcy Rule 9007, “[w]hen notice is to be given under the [Bankruptcy Rules], the court shall designate, if not otherwise specified herein, the time within which, the entities to whom, and the form and manner in which the notice shall be given.” Fed. R. Bankr. P. 9007.

6. Together, these rules provide the Court with the authority to enter an *ex parte* order scheduling a hearing on shortened notice and approving the manner of notice of such hearing.

7. On August 29 and 30, 2013, the Objectors took the depositions of Kenneth Buckfire and Kenneth Orr, respectively, in connection with the upcoming evidentiary hearing on the Assumption Motion. As explained in their Motion, the Objectors believe that the deposition testimony should be admitted pursuant to Federal Rule of Civil Procedure 32.

8. Because the hearing at which the Objectors will seek to use the deposition testimony of Messrs. Orr and Buckfire is scheduled for September 24, 2013, it is necessary to bring the Motion before the Court expeditiously. The Objectors will serve this *Ex Parte* Motion via the Court's ECF system to the parties in the above-captioned proceeding and will provide notice of the *ex parte* order promptly upon issuance.

9. For these reasons, the Objectors submit that cause exists to schedule a hearing on its Motion for September 24, 2013, at 9:00 a.m., on shortened notice.

WHEREFORE, the Objectors respectfully request that the Court enter an order, substantially in the form attached as Exhibit 1, granting the relief requested in this *Ex Parte* Motion and granting such further relief as the Court deems appropriate.

[Remainder of this page intentionally left blank]

Dated: September 19, 2013

Respectfully submitted,

KIRKLAND & ELLIS LLP

By: /s/ Stephen C. Hackney

James H.M. Sprayregen, P.C.

Ryan Blaine Bennett

Stephen C. Hackney

KIRKLAND & ELLIS LLP

300 North LaSalle

Chicago, Illinois 60654

Telephone: (312) 862-2000

Facsimile: (312) 862-2200

- and -

Stephen M. Gross

David A. Agay

Joshua Gadharf

MCDONALD HOPKINS PLC

39533 Woodward Avenue

Bloomfield Hills, MI 48304

Telephone: (248) 646-5070

Facsimile: (248) 646-5075

*Attorneys for Syncora Guarantee Inc. and
Syncora Capital Assurance Inc.*

By: /s/ Vincent J. Marriott, III

Howard S. Sher

JACOB & WEINGARTEN, P.C.

Somerset Place

2301 W. Big Beaver Road, Suite 777

Troy, Michigan 48084

Telephone: (248) 649-1200

Facsimile: (248) 649-2920

E-mail: howard@jacobweingarten.com

-and-

Vincent J. Marriott, III

BALLARD SPAHR LLP

1735 Market Street, 51st Flr.

Philadelphia, PA 19103

Phone: 215.864.8236

Fax: 215.864.9762

Email: marriott@ballardspahr.com

-and-

Matthew G. Summers

BALLARD SPAHR LLP

919 North Market Street, 11th Floor

Wilmington, Delaware 19801

Telephone: (302) 252-4428

Facsimile: (410) 361-8930

E-mail: summersm@ballardspahr.com

*Attorneys for Erste Europäische Pfandbriefund
Kommunalkreditbank Aktiengesellschaft in
Luxemburg S.A.*

By: /s/ Karen V. Newbury

Rick L. Frimmer

Karen V. Newbury

Michael W. Ott

SCHIFF HARDIN, LLP

233 S. Wacker Drive, Suite 6600

Chicago, IL 60606

Telephone: (312) 258-5600

Facsimile: (312) 258-5600

E-mail: rfrimmer@schiffhardin.com

E-mail: knewbury@schiffhardin.com

E-mail: mott@schiffhardin.com

Attorneys for DEPFA Bank PLC

By: /s/ Caroline Turner English

Carol Connor Cohen

Caroline Turner English

ARENT FOX LLP

1717 K Street, NW
Washington, DC 20036-5342
Telephone: (202) 857-6054
E-mail: Carol.Cohen@arentfox.com

-and-

David L. Dubrow
Mark A. Angelov
ARENT FOX LLP
1675 Broadway
New York, NY 10019
Telephone: (212) 484-3900

-and-

SCHAFER AND WEINER, PLLC
Daniel J. Weiner (P32010)
Brendan G. Best (P66370)
40950 Woodward Ave., Suite 100
Bloomfield Hills, MI 48304
Telephone: (248) 540-3340
E-mail: bbest@schaferandweiner.com

Attorneys for Ambac Assurance Corporation

By: /s/ Guy S. Neal
Eric D. Novetsky
Louis P. Rochkind
JAFFE, RAITT, HEUER & WEISS, P.C.
2777 Franklin Road, Suite 2500
Southfield, MI 48034
Telephone: (248) 351-3000
Facsimile: (248) 351-3082
E-mail: enovetsky@jaffelaw.com

-and-

Jeffrey E. Bjork
SIDLEY AUSTIN LLP

555 West Fifth Street, Suite 4000
Los Angeles, CA 90013
Telephone: (213) 896-6000
Facsimile: (213) 896-6600
E-mail: jbjork@sidley.com

-and-

SIDLEY AUSTIN LLP

Guy S. Neal
1501 K Street, N.W.
Washington, DC 20005
Telephone: (202) 736-8000
Facsimile: (202) 736-8711
E-mail: gneal@sidley.com

Attorneys for National Public Finance Guarantee Corporation

By: /s/ Lawrence A. Larose

Lawrence A. Larose, Esq.
Samuel S. Kohn, Esq.
Carrie V. Hardman, Esq.

WINSTON & STRAWN LLP

200 Park Avenue
New York, NY 100166-4193
Telephone: (212) 294-6700
Facsimile: (212) 294-4700
E-mail: llarose@winston.com
E-mail: skohn@winston.com
E-mail: chardman@winston.com

-and-

Sarah T. Foss, Esq.
WINSTON & STRAWN LLP
1111 Louisiana, 25th Floor
Houston, TX 77002-5242
Telephone: (713) 651-2600

Facsimile: (713) 651-2700
E-mail: sfoss@winston.com

Attorneys for Assured Guaranty Municipal Corp.

By: /s/ Mark R. James

Ernest J. Essad Jr.

Mark R. James

**WILLIAMS, WILLIAMS, RATTNER &
PLUNKETT, P.C.**

280 North Old Woodward Avenue, Suite 300
Birmingham, MI 48009

Telephone: (248) 642-0333

Facsimile: (248) 642-0856

E-mail: EJEssad@wwrplaw.com

E-mail: mrjames@wwrplaw.com

-and-

Alfredo R. Pérez

WEIL, GOTSHAL & MANGES LLP

700 Louisiana Street, Suite 1600

Houston, TX 77002

Telephone: (713) 546-5000

Facsimile: (713) 224-9511

E-mail: Alfredo.perez@weil.com

*Attorneys for Financial Guaranty Insurance
Company*

By: /s/Robert D. Gordon

Robert D. Gordon

Shannon L. Deeby

CLARK HILL PLC

151 South Old Woodward Avenue, Suite 200
Birmingham, MI 48009

Telephone: (248) 988-5882

Facsimile: (248) 988-2502

E-mail: rgordon@clarkhill.com

*Counsel to the Police and Fire Retirement System
of the City of Detroit and the General Retirement
System of the City of Detroit*

By: /s/ Carole Neville

Carole Neville

Claude Montgomery

DENTONS

1221 Avenue of the Americas

New York, New York 10020-1089

D +1 212 768 6700

F +1 212 768 6800

carole.neville@dentons.com

claudemontgomery@dentons.com

Counsel to the Official Committee of Retirees